HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.861 of 2007

Between:

Mattapally Deepthi Kiran

... Appellant

And

Mattapally Gopal Rao and others

... Respondents

Counsel for the appellant: Shri K.V. Bhanu Prasad

::JUDGMENT::

October 11, 2007

Per G.S. Singhvi, CJ

Feeling aggrieved by the order of the learned Single Judge, who set aside the grant of pattadar passbook to her, the appellant has filed this appeal under Clause 15 of the Letters Patent.

Respondent No.1 – Mattapally Gopal Rao claims to have purchased Ac.3-32 gts. of land comprised in Survey No.664/2, 677/B and 691/2 of Chowtapally Village, Parwathagiri Mandal, Warangal

District from the appellant's father Shri Mattapalli

Sri Ranga Rao (respondent No.4 herein) by an unregistered sale-deed dated 4.7.1999 for a consideration of Rs.3,05,200/-. After five years, respondent No.4 executed a gift settlement deed dated 29.6.2004 in favour of the appellant. The latter filed O.S.No.1060 of 2006 in the Court of II Additional Junior Civil Judge, Warangal for grant of permanent injunction against respondent No.4. The trial court passed an order of ad-interim injunction on 04.7.2006.

During the pendency of the suit, respondent No.1 and the appellant filed applications for mutation of their name in the Record of Rights. Revenue Divisional Officer, Warangal vide his order dated 11.9.2006 instructed the Mandal Revenue Officer (now Tahsildar) (respondent No.3) to conduct enquiry and submit a report. The latter submitted the required report. However, without considering the same, Joint Collector, Warangal (respondent No.2 herein) entertained the representation made by respondent No.4 and passed order dated 29.3.2007, the relevant portions of which read as under:

"In view of the aforesaid discussions, you are hereby directed to take an immediate action.

1. To fix the responsibility on the concerned who made irregular entries and issued contradictory pahani nakals for the year 2004-05.
2. To advise the purchaser who has filed an objection petition to approach the competent Civil Court for deciding the genuineness of the document, which is in question.
3. To take necessary action for implementing the registered gift deed and issuance of pattadar pass book / title deed to Kum. Deepthi Kiran D/o.Sri M. Sri Ranga Rao as per ROR rules and submit compliance report."

In compliance of the directions given by respondent No.2,

respondent No.3, vide proceedings No.N.6217/2006, dated 10.4.2007, issued pattadar passbook in favour of the appellant.

Respondent No.1, who has not been impleaded as party to O.S.No.1060 of 2006 and to whom notice was not issued by respondent No.2 before passing order dated 29.3.2007, filed Writ Petition No.16187 of 2007 for quashing that order and consequential proceedings issued by respondent No.3 by contending that the directions given by respondent No.2 to respondent No.3 for implementing the registered gift deed executed by respondent No.4 in favour of the appellant and to issue pattadar passbook/title deed to her is vitiated due to violation of the rules of natural justice. Another plea taken by respondent No.1 was that respondent No.2 does not have the power, jurisdiction or authority to issue direction under the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') to the competent authority to exercise its discretion in a particular fashion.

The learned Single Judge accepted the plea of respondent No.1 and quashed order dated 29.3.2007 by observing that the same is in utter violation of the principles of natural justice.

Shri K.V. Bhanu Prasad conceded that before passing order dated 29.3.2007, respondent No.2 did not give notice or opportunity of hearing to respondent No.1, but argued that the rules of natural justice are not attracted in such matters and the learned Single Judge committed an error by nullifying the direction given by respondent No.2 for issue of pattadar passbook to the appellant. He submitted that respondent No.3 was not bound by the direction given by respondent No.2 for issue of pattadar passbook to the appellant and

argued that the officer concerned issued pattadar passbook to his client satisfying himself about the entitlement of the appellant to get pattadar passbook on the basis of registered gift deed executed by her father. Shri Bhanu Prasad invited our attention to representation dated 15.3.2007 made by the appellant to respondent No.2 and argued that the learned Single Judge erroneously assumed that the application made by respondent No.4 was disposed of by respondent No.2 on that very day.

In our opinion, there is no merit in the arguments of the learned counsel and the appeal is liable to be dismissed summarily. A recapitulation of the facts shows that the appellant and respondent No.1 had simultaneously applied for mutation of their respective names in the Record of Rights and in pursuance of the direction given by Revenue Divisional Officer, Warangal, respondent No.3 submitted report. However, without taking cognizance of the report of respondent No.3 and without issuing notice and giving opportunity of hearing to respondent No.1, respondent No.2 ordained the issue of pattadar passbook to the appellant. The authoritative character of the direction given by respondent No.2 is evinced from the operative part of order dated 29.3.2007, which has been reproduced above. In the face of that direction, respondent No.3 did not have any option but to issue pattadar passbook in favour of the appellant, which he did on 10.4.2007. Therefore, we have no hesitation to approve the conclusion recorded by the learned Single Judge that the direction given for issue of pattadar passbook to the appellant and consequential action taken by respondent No.3 are contrary to the rules of natural justice.

We are also of the view that in the absence of any statutory empowerment, respondent No.2 did not have the jurisdiction to entertain the application made by the father of respondent No.4 and issue the directions, which have been extracted hereinabove, in the matter of issue of pattadar passbook. Representation dated 15.3.2007, which is said to have been made by the appellant to respondent No.2 is different than letter dated 29.3.2007 written by respondent No.4 to respondent No.2. Therefore, Shri Bhanu Prasad is not right in his submission that the learned Single Judge committed an error by making an observation about the undue haste shown by respondent No.2 in passing order dated 29.3.2007.

In the result, the appeal is dismissed.

G.S. SINGHVI, CJ

October 11, 2007

C.V. NAGARJUNA REDDY, J

svs/ARS